

Index No. 21 Civ. 7001 (DG)(LB)
UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK
Dianna Lysius, Plaintiff, -against- New York City Law Department, Philippe Knabb, Holly Ondaan, Carmelyn P. Malalis, Zoey Chenitz, Nermina Arnaud, Sapna Raj, John B. Spooner, City of New York, and New York City Commission on Human Rights, Defendants.
<b>OBJECTIONS TO REPORT &amp; RECOMMENDATION</b>

In response to Judge Blooms Report and Recommendation, dated June 12, 2023, I write to you Judge Gujarati directly informing that you are 100% liable to not only take into consideration but you must CCHR complaint (exhibit 1B) against my personal phone records (exhibit 2) firstly before continuing to read my response below. This will provide accuracy and confidence when you issue the decision/order. Should you not do so, and ignore the facts stated in my claim and the evidence that supports my claim then confirm that you too, all are working together, and my life means nothing.

The audacity of Judge Bloom to state that the Judge Spooner to confirm the text messages alleges appear on my phone record, when in fact Judge Spooner failed to EVER mention my Sprint phone records, followed by the CCHR issue a final decision which too DOES NOT speak on my phone which they subpoenaed. If you followed the same formality, then it is your choice to do what you believe is right. However, I made this clear that I am innocent, the evidence is readily available and continuously overlooked. Why? It is your duty as the Judge presiding over the matter to be sure that the decision clearly states that you have reviewed the CCHHR complaint which details the dates and times of the text messages against my phone records that provide the dates, times, and phone numbers dialed/texted.

So how is that Judge Bloom states this with confidence, and maliciously with full audacity accuse me. Is this an attempt to have me return to State Court with Holly Ondaan to discuss paying her. I am telling you this, I'll die before I accept any of the Judicial System Corruption. If a State Judge confronts me with any directives to pay Holly Ondaan a dime, I am walking out the Court room daring the Judge to touch any of my bank accounts and or assets. I give you this statement as a promise not a threat. I am not doing NOTHING THE CCHR or OATH states, if you adapt Judge Blooms Report and Recommendation so that it can be used in state court you are LIABLE.

It is very simple; however, Judge Bloom choose to rewrite the background and procedural aspects that void all Civil Rights violations, specifically, the fact that I was denied deposing Holly Odaan which you have to confirm if that is adequate/fair legal procedure under the United States Constitution.

## **BACKGROUND**

The background outlined by Judge Bloom does not include pertinent information but outright accuses me of wrongdoing, sending discriminatory text messages.

Judge Bloom states that I received due process throughout the CCHR proceeding which is in fact a lie. Not being able to depose your accuser prior to trial is a violation of my Civil Rights. CCHR nor Judge Bloom have not presented a transcribed deposition for Holly Ondaan that would confirm that I received due process. If you Judge Gujarati believes that I Dianna Lysius being denied deposing Holly Ondaan, my accuser prior to trial is not a Civil Rights violations please explain in detail when rendering your decision and reference the law that confirms a person's rights is NOT violated in the event, they are denied deposing their accuser prior to trial. Not doing so is clearly confirmation that you don't care anything about my life.

Under the US Constitution both the accuser and defendant must be granted the opportunity to depose each other. I was not granted this opportunity of due process, and rejecting the Report and Recommendation is warranted because I did not receive due process, despite being deposed by the CCHR. I have entered evidence a full copy of my deposition as Judge Bloom totally disregards. This unfair justice, not being able to depose Holly Ondaan is not considered due process, which left me with a disadvantage during the OATH trial proceeding.

Judge Bloom states that the Commission found that I did in fact discriminate against Holly Ondaan, which Judge Bloom is aware of the phone records and failed to review, however quotes the alleged text messages from the CCHR complaint leaving out important facts associated with the quotes. The text messages in the complaint provide dates and times the alleged text messages were sent, which Judge Bloom failed to include the dates and times of the text messages when quoting the text. Why? This was done maliciously, and it is your duty as the Judge who is rendering the final decision to be confident when doing so by reviewing the complaint and phone records which corroborate the facts stated in the claim. Judge Spooner's Report and Recommendation was written by shifting the burden of proof and never discussing the phone records compared to the text messages. Why? The OATH trial transcripts too confirm that Judge Spooner was not only aware of the phone records but entered the phone records into

evidence and at that time identified during trial that no text messages appeared on my phone record that were alleged in the complaint which confirms the burden of proof was shifted.

My then attorney, Jonathan Rosenberg responded to Judge Spooner Report and Recommendation stating that my Sprint phone records were overlooked maliciously, just as Judge Bloom has done as well, and hope you DONT DO THE SAME. Judge Spooner did not make any reference to the Sprint phone records which is the direct evidence that proved my innocence, again it is your duty, as you are liable after the fact, when rendering the decision, and extremely important that you are confident that you have done your due diligence in reviewing the evidence, specifically the phone records and alleged texts dates and time that were quoted by Judge Bloom prior to adapting any final decision. Not doing so will allow for you to issue decision in violation of my Civil Rights.

Furthermore, Judge Bloom refers to the State Proceeding, was barred due to untimely filing which is too in fact a lie. Judge Bloom understands my then attorney Jonathan Rosenberg, was in cahoots with Legal Aid Society dismissed me as a client on the day the last day the State Court Proceeding would have been filed and failed to provide me with all my documents. However, the State Laws allow for a tolling of time if a defendant can meet specific elements which I have done so but Judge Kerrigan in State Court ignored my motion and proceeded with dismissing my complaint not because it was untimely but because he overlooked my equitable tolling motion and sided with Zoey Chenitz whom he has a relationship prior. Judge Kerrigan failed to recuse himself from the proceeding which resulted in a biased decision in favor of Zoey Chenitz.

Also, for the record Holly Ondaan did not move out of the apartment, she was forcibly removed by the Marshalls. Holly Ondaan filed several order to show cause to remain in the unit but was denied due to her continuous lies during the Housing Court Proceeding that ended with the a decision in favor of EVICTING Holly and her child without any additional time granted.

## **THE ALLEGED WRONGDOING**

I have not made any allegations in my claim to the US Eastern District Court that is not supported by undisputable evidence. All evidence presented was not reviewed or inspected, which must be done, and it appears all levels of the Judicial System fail to do so. I direct you Judge Gujarati to reject the Report and



Recommendation because not only was the phone records not inspected by USCIS was not contacted which will confirm that my claims are not allegations but facts that cannot be disputed. It is your duty to communicate with USCIS to corroborate my claim that I was falsely accused to support an immigration application that commenced 6 months prior to the alleged discriminatory text. Whether or not a USCIS agent name is not provided, the office is readily available to answer all questions.

## **PROCEDURAL HISTORY**

The procedural history noted by Judge Bloom fails to discuss the motion for injunctive relief which I submitted, nor did Judge Bloom respond to the motion. Why? Reason being, is because all elements needed for a Judge to consider an injunctive relief motion and intervene in the State proceeding is identified and cannot be disputed, so instead the motion remains unanswered. Nor does Judge Bloom state any action taken against Holly Ondaan for not answering the complaint. However, it appears that the Report and Recommendation is written for you Judge Gujarati to dismiss my complaint which I reject and ask the courts to allow me to proceed with my claims that are facts not allegations. This is an attempt to have discussions in State Court which I am not having, and you are aware and liable that if a discussion takes place about this I am walking right out and allowing you all to figure out the rest since you all figure my life is worth nothing. I am not scared of anyone or nothing, at this point I am sure you are aware that my last breath is vested in this case.

## **DISCUSSION**

Judge Bloom, again fails to discuss the accuracy of the phone records but elaborates on failure to state a claim. Failure to elaborate on the text messages will allow for Judge Bloom to make her own malicious bias statement that a claim was not stated.

“A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove **no set of facts** in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). “In reviewing the allegations, this Court construes the complaint in a light **most favorable to the plaintiff**, accepting all of the **factual allegations as true** and determines

## **SUABLE ENTITIES**

The City of New York is liable for the actions of their employees during the normal course of business. All employees, including those employed at the CCHR worked under the directives of the City of New York a party to the complaint. It is against the law to wrongfully accuse, defame one's character, and retaliate against an employee. The defendants named in the complaint have wrongfully and maliciously destroyed my life in the direction of their employee who later terminated all their employment immediately after the OATH Trial. There are several cases brought against the City of New York on behalf of the actions of their employees that can be referenced such as Khalif Browder. The young man who too was wrongfully accused and later killed himself due to the abuse endure at Rikers Island, family sued the City of New York. I have proven that all parties acted under the color of law and a review of my phone records will confirm this too. If you Judge Gujarati failed to review the phone records, then you will be doing a big injustice, and rejecting the Judge Blooms misleading Report and Recommendation.

Why is so hard to review the alleged text messages dates and time against my sprint phone records that will answer all questions, remove all possible liabilities, and above all allow me to live a normal peaceful stress-free life. That is the only life that I will live and if City of New York will not take my life from nor will any Judge under no circumstances will I be falsely accused by anyone specifically Judge Bloom who biasly ignored the phone records as every Judicial level I have encountered has done previously. This must stop; my evidence supports my defense why is my defense being overlooked? Why is Holly Ondaan entitled to a Green Card under false pretense which can be verified by USCIS that my entire complaint is valid.

## **Conclusion**

It respectfully DEMANDED that the claim not be dismissed as result of the Judge Bloom's failure to state the dates and times of the text which Judge Blooms quotes in the Report and Recommendation. The dates and times are key factors in proving that all my claims are facts and US Eastern District Court must intervene and exercise jurisdiction. Overlooking evidence is grounds for rejecting a Report and Recommendation because the Judge who adapts the recommendations rely on the Magistrate which in this case, the Magistrate Judge failed to review the facts and evidence accordingly. Such acts are not errors in law by a Judge who has the information readily available. In comparison to the Judge Domingo's failure led to Khalif Browder being unable to cope with and ultimately committed suicide because a Judge failed to do her job according to the US Constitution. I ask that you don't do what Judge Domingo did, instead I ask that you reject the Report and Recommendation, answer my motion for injunctive relief, and exercise jurisdiction as the Younger Abstention Doctrine allows for such without

delay. I will not allow the US Eastern District Court to assist City of New York in shaming my life, destroying my character, leaving me depressed and distressed knowing that I am innocent. There is no one who can cope with knowing they are innocent but being that they are guilty when the evidence is available. I am not accepting anything less than justice, anything other than justice in my favor is letting me know that my life has no value at all.

Do not send any police, EMS, US Marshalls, Psychiatrist, Physicians, or anyone to my home to check on my sanity because I am not crazy. Anyone come to my house again I am not opening the door, I am going to lay there and let them kick the door down. It is disrespectful for you to send US Marshalls to my home as if you are concerned with my wellbeing. As of now you have all you need to show how much you care about my wellbeing, so I ask that you prove such concern by confirming that you read and compared the phone records, dates, and time against the CCHR complaint that lists dates and times. Also, the plan is to have me go back to State Court and Holly appears with one of those free attorneys trying to discuss that I owe her any money I am walking right out of the Court room and you all can figure out how she can collect on my estate. That's on my life, and I am not going back and forth with NO MRE JUDGES ABOUT MY INNOCENCE.

Judges have a job to uphold the law and that's all I expect and accept that the Report and Recommendation is rejected.

Regards.

A handwritten signature in dark ink, appearing to read 'D Lysius', followed by the date '8/21/23'.

Dianna Lysius